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BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 97-278-C - ORDER NO. 97-915  
OCTOBER 24, 1997

IN RE: Application of U.S. Telco, Inc. for ) ORDER  
a Certificate of Public Convenience and ) APPROVING  
Necessity to Provide Local Exchange ) CERTIFICATE TO  
Telecommunications Service throughout ) PROVIDE LOCAL  
the State of South Carolina. ) SERVICE

✓ MR

This matter comes before the Public Service Commission of South Carolina ("the Commission") by way of the application of U.S. Telco, Inc. ("U.S. Telco" or "the Company"). The Application requests that the Commission issue a Certificate of Public Convenience and Necessity to allow U.S. Telco to provide local exchange telecommunications services in the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1996), and the Regulations of the Commission.

By letter dated July 29, 1997, the Commission's Executive Director instructed U.S. Telco to publish, one time, a prepared Notice of Filing and Hearing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing and Hearing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings and to provide notice of the hearing date on this matter. U.S. Telco complied with this instruction and provided the Commission with proof of publication

of the Notice of Filing and Hearing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

A hearing was convened on October 1, 1997, 10:30 a.m. in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. U.S. Telco was represented by John J. Pringle, Jr., Esquire and Kyle L. Dickson, Esquire. The Commission Staff ("Staff") was represented by Florence P. Belser, Staff Counsel. SCTC did not appear at the hearing.

Prior to the hearing, U.S. Telco and the SCTC executed a Stipulation dated September 30, 1997, and the Stipulation was filed with the Commission. As a result of the Stipulation, SCTC withdrew its intervention in the Docket. U.S. Telco offered the Stipulation as a Hearing Exhibit (Hearing Exhibit No. 1) and requested Commission approval of the Stipulation. The Stipulation provides the following:

(1) The SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to U.S. Telco if the Commission makes the necessary findings to grant the Certificate and if all stipulated conditions are met;

(2) U.S. Telco agrees that any Certificate granted by the Commission will authorize U.S. Telco to provide service only to customers located in non-rural local exchange company ("LEC") service areas except as otherwise provided;

(3) U.S. Telco agrees that it is not requesting the Commission to find whether competition is in the public interest for rural areas;

(4) U.S. Telco agrees that it will not provide local service, by its own facilities or otherwise, to any customer in a rural incumbent LEC's service area, unless and until U.S. Telco provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. U.S. Telco also acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause;

(5) U.S. Telco agrees that if, after U.S. Telco gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then U.S. Telco will not provide service to any customer located within the service area in question without prior and further Commission approval;

(6) U.S. Telco acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to

such proposed service which the Commission may implement, so long as such policies, procedures and guidelines do not conflict with Federal or State law;

(7) U.S. Telco and the SCTC agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and that the stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled; and

(8) U.S. Telco agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

This stipulation is consistent with our decision in Order No. 96-494 (Docket No. 96-073-C). It was signed voluntarily by both the SCTC and U.S. Telco, was filed with the Commission prior to the hearing in this matter, and was made a part of the record at the hearing. We therefore approve the stipulation.

In support of its Application, U.S. Telco presented David Pikoff, President and a Shareholder of U.S. Telco, to testify. The purpose of Mr. Pikoff's testimony was to present evidence on the technical, managerial, and financial abilities of U.S. Telco to provide local exchange telecommunications services in South Carolina and to discuss the services which U.S. Telco proposes to offer.

DISCUSSION

S.C. Code Ann. §58-9-280 (Supp. 1996) provides that the Commission may grant a certificate to operate as a telephone utility ... to applicants proposing to furnish local telephone service in the service territory of an incumbent LEC.

After full consideration of the applicable law, U.S. Telco's Application, and the evidence presented at the hearing, the Commission finds and concludes that the Certificate sought by U.S. Telco should be granted. The Commission's determination is based on the following criteria as provided in S.C. Code Ann. §58-9-280 (Supp. 1996) and the evidence presented at the hearing which relates to that criteria:

(1) The Commission finds that U.S. Telco possesses the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1996). To demonstrate U.S. Telco's technical qualifications, Mr. Pikoff testified that U.S. Telco began offering resold local exchange services in Texas in June of 1996 and began offering its prepaid local service in late 1996. Further, Mr. Pikoff offered that in less than six (6) months U.S. Telco had built a customer base in excess of 4,000 customers. Additionally, U.S. Telco is providing local service in Arizona, Florida, Maryland, Washington, D.C., and Colorado and has been approved in nineteen states.

Concerning U.S. Telco's managerial qualifications, Mr. Pikoff testified that U.S. Telco's management team collectively has more

than twenty (20) years experience in the telecommunications industry. Regarding U.S. Telco's financial resources, the record reveals that U.S. Telco is organized under the laws of the State of Texas. Mr. Pikoff testified that U.S. Telco has sufficient financial resources to provide local services and further that U.S. Telco has access to additional capital if necessary. No other party offered any evidence in opposition to Mr. Pikoff's testimony. Based on the undisputed evidence of the record, the Commission finds that U.S. Telco possesses the technical, financial, and managerial resources sufficient to provide the services requested.

(2) The Commission finds that U.S. Telco will provide services that will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1996). Mr. Pikoff testified that U.S. Telco proposes to provide on a prepaid basis local exchange telecommunications services. Mr. Pikoff specifically stated that U.S. Telco will comply with all applicable rules, policies, and statutes applicable to the offering of those services and that U.S. Telco fully intends to meet the Commission's service standards. Furthermore, counsel for U.S. Telco stated that U.S. Telco would make certain changes to its tariff, as suggested by Staff, to bring the tariff into compliance with Commission Rules and Regulations. No party offered any evidence to dispute Mr. Pikoff's testimony. Based on the undisputed testimony from Mr. Pikoff, the Commission believes, and so finds, that U.S. Telco will provide telecommunications services

which will meet the service standards of the Commission.

(3) The Commission finds that U.S. Telco's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1996). Mr. Pikoff stated that U.S. Telco's service offerings would not adversely impact the availability of affordable local exchange service. Mr. Pikoff offered that certification of U.S. Telco will advance the goals of universal service, promote efficient use of the network, and help insulate the telecommunications industry from fraud and abuse. No party offered any evidence that the provision of local exchange service by U.S. Telco would adversely affect local rates. Therefore, based on the undisputed evidence of record, the Commission finds that provision of local exchange services by U.S. Telco will not adversely impact affordable local exchange service.

(4) The Commission finds that U.S. Telco will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1996). Mr. Pikoff testified that U.S. Telco will comply with the Commission's universal service requirements. No party disputed Mr. Pikoff's testimony. Based on the undisputed evidence of record, the Commission finds that U.S. Telco will participate in support of universally available telephone service at affordable rates.

(5) The Commission finds that the provision of local exchange service by U.S. Telco "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5)

(Supp. 1996). Mr. Pikoff offered that approval of U.S. Telco to provide services will benefit consumers by ensuring competitive local service within the State of South Carolina. Mr. Pikoff also offered that approval of U.S. Telco to provide local service would promote competition within the telecommunications industry as well as advance the goals of universal service and help insulate the telecommunications industry from fraud or abuse. Mr. Pikoff's testimony was undisputed as no party offered any evidence that approval of U.S. Telco's Application would adversely impact the public interest. Therefore, the Commission finds that approval of U.S. Telco's Application for a Certificate to provide local exchange service "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1996).

(6) U.S. Telco requested a waiver of the Commission's regulation requiring the publishing of local directories. U.S. Telco also requested that it be exempt from any record-keeping rules or regulations that might require it to maintain its financial records in conformance with the Uniform System of Accounts ("USOA"). Mr. Pikoff stated that U.S. Telco will contract with the ILECs to provide U.S. Telco's customers with directory listings as well as the distribution of directories. Mr. Pikoff also stated that U.S. Telco maintains its books and record under General Accepting Accounting Principles ("GAAP"). The Commission finds that the requested waivers are in the public interest and should be approved.

Therefore, based on the findings above, the Commission finds



and concludes that the Certificate sought by U.S. Telco should be granted.

IT IS THEREFORE ORDERED THAT:

1. The Application of U.S. Telco for a Certificate of Public Convenience and Necessity to provide resold and facilities-based local exchange telecommunications services in the State of South Carolina is approved.

2. The Stipulation filed by U.S. Telco and the SCTC is approved by this Commission, is binding upon U.S. Telco and the SCTC, and shall be implemented as set forth in the Stipulation. We therefore make no findings or conclusions regarding competition in the rural areas of South Carolina. U.S. Telco shall conduct its operations in compliance with the Stipulation until further Order of the Commission.

3. U.S. Telco shall file, prior to offering local exchange services in South Carolina, a final tariff of its service offerings. The final tariff shall include the modifications and changes as proposed by the Commission Staff and to which U.S. Telco agreed.

4. U.S. Telco shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, U.S. Telco shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general

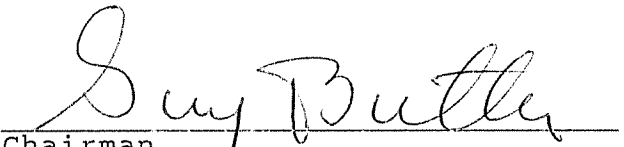
management duties as well as emergencies which occur during non-office hours. U.S. Telco shall file with the Commission the names, addresses, and telephone numbers of these representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, U.S. Telco shall promptly notify the Commission in writing if the representatives are replaced. U.S. Telco is directed to comply with all Commission regulations unless expressly waived by the Commission.

5. U.S. Telco shall conduct its business in accordance with Commission decisions and Orders, both past and future, including, but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

6. U.S. Telco is granted a waiver from the regulation of publishing a directory as long as U.S. Telco contracts with the ILECs to provide U.S. Telco's customers with directory listings and to distribute the directories. U.S. Telco is also granted a waiver of any regulation requiring that its record keeping be in conformance with USOA as long as U.S. Telco maintains its books and records under GAAP.

7. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)

DOCKET NO. 97-278-C - ORDER NO. 97-915  
OCTOBER 24, 1997  
ATTACHMENT A

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INFORMATION OF THE AUTHORIZED UTILITY REPRESENTATIVES  
FOR INTEREXCHANGE, LOCAL AND AOS COMPANIES

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
REGULATION 103-612.2.4(b), each utility shall file and  
maintain with the Commission the name, title, address, and  
telephone number of the persons who should be contacted in  
connection with Customer Relations/Complaints.

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Company Name/DBA Name

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Business Address

---

City, State, Zip Code

---

Authorized Utility Representative (Please Print or Type)

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Telephone Number

---

Fax Number

---

E-Mail Address

---

This form was completed by

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Signature

If you have any questions, contact the Consumer Services  
Department at 803-737-5230